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Attorneys for Defendant

COSTCO WHOLESALE CORPORATION, a Washington
Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

DANIEL RIVERA; MARIA RIVERA,

Plaintiff,

vs.

COSTCO WHOLESALE
CORPORATION; and DOES 1 to 10,

Defendants.

CASE NO. 8:22-cv-01614

**DEFENDANT’S NOTICE OF
REMOVAL OF ACTION UNDER 28
U.S.C. § 1441(a) (DIVERSITY)**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT, TO
PLAINTIFFS, DANIEL RIVERA AND MARIA RIVERA, AND TO THEIR
COUNSEL OF RECORD:**

NOTICE IS HEREBY GIVEN that Defendant, COSTCO WHOLESALE CORPORATION, a Washington Corporation (“Defendant”), hereby removes this action from the Superior Court of the State of California, County of Orange, to the United States District Court, Central District of California, Southern Division and sets forth in support of its Notice of Removal of Action the following:

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1 1. On October 4, 2021, Plaintiffs, DANIEL RIVERA and MARIA RIVERA
2 (“Plaintiffs”), commenced an action against Defendant by filing a Summons and
3 Complaint in the Superior Court of California, County of Orange, Case No. *30-2021-*
4 *01224357-CU-PO-CJC*. (A true and accurate copy of Plaintiffs’ Summons, Complaint,
5 and Civil Case Cover Sheet are attached as **Exhibit A** to the Declaration of Lauren E.
6 Raya.)

7 2. Plaintiffs filed an unlimited civil complaint seeking monetary damages in
8 excess of \$25,000.00. In the complaint, and as a result of the slip and fall incident,
9 Plaintiffs claim to have suffered: (1) hospital and medical expenses; and (2) general
10 damages. Plaintiffs pray for compensatory damages according to proof. (See Complaint
11 at p. 3.)

12 3. Defendant was served on April 4, 2022. (A true and accurate copy of
13 Plaintiffs’ Proof of Service of Summons and Complaint is attached to the Declaration of
14 Lauren E. Raya as **Exhibit B**.)

15 4. On May 4, 2022, Defendant filed an Answer, Declaration of Trial
16 Attorney, and Jury Demand. (A true and accurate copy of the Answer, Declaration of
17 Trial Attorney, and Jury Demand is attached to the Declaration of Lauren E. Raya as
18 **Exhibit C**.)

19 5. On August 16, 2022, Defendant received Plaintiffs’ Statement of Damages
20 wherein Plaintiff Daniel Rivera identified that he is seeking general damages in excess
21 of \$75,000.00. Plaintiff Maria Rivera identified that she is seeking general damages in
22 excess of \$75,000.00. (A true and accurate copy of Plaintiffs’ Statement of Damages is
23 attached to the Declaration of Lauren E. Raya as **Exhibit D**.)

24 6. Defendant has filed this Notice pursuant to 28 U.S.C. § 1446(b) in a timely
25 fashion, in that this Notice has been filed within one year of the commencement of the
26 action and within thirty days after receipt by the Defendant, through service or
27 otherwise, other paper from which it may first be ascertained that the case is one which
28 is or has become removable. See Mix v. Allstate Ins. Co., No. CV 00–835 RCTX, 2000

1 WL 1449880 (C.D. Cal. April 19, 2000).

2 **Complete Diversity Exists**

3 7. This action wholly involves citizens of different states. At the time this
4 action was commenced, and since that time, Plaintiffs were and are residents and
5 citizens of the State of California, with their domicile in the State of California. (*See*
6 *Raya Dec.* at ¶ 4.)

7 8. Pursuant to 28 U.S.C. § 1332(c), “a corporation shall be deemed to be a
8 citizen of any State by which it has been incorporated and of the State where it has its
9 principal place of business.” Defendant was, at the time of the filing of this action, and
10 still is, a citizen of the State of Washington, where it has its principal place of business
11 and where it is incorporated. (*See Exhibit E* to *Raya Decl.*; *Raya Decl.* ¶ 5.)

12 9. Pursuant to 28 U.S.C. §1441(a), the fictitious defendants named in the
13 complaint are disregarded for purposes of determining the existence of diversity
14 citizenship.

15 **The Amount in Controversy Requirement is Satisfied**

16 10. Plaintiffs filed an unlimited civil complaint seeking monetary damages in
17 excess of \$25,000.00. In the complaint, and as a result of the slip and fall incident,
18 Plaintiffs claim to have suffered: (1) hospital and medical expenses; and (2) general
19 damages. Plaintiffs pray for compensatory damages according to proof. (*See Complaint*
20 *at p. 3.*)

21 11. Plaintiffs Daniel Rivera and Maria Rivera each served a Statement of
22 Damages seeking general damages in excess of \$75,000. (*See Raya Decl.* ¶ 7.)

23 12. Thus, based on the facts provided above, the amount in controversy,
24 exclusive of interest and costs, is in the excess of \$75,000.00. This Court therefore has
25 original jurisdiction of this action under 28 U.S.C. § 1332 and, because Defendant is not
26 a citizen or resident of the State of California, wherein this action is pending, removal
27 of the action to this court is proper under 28 U.S. Code § 1441(a).

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The Other Requirements for Removal Are Met

13. A copy of the Notice to Adverse Parties of Removal of the Case to Federal Court, which is attached to this Notice, will be filed with the Superior Court of California, County of Orange and served on all involved parties to this action. (A true and correct copy of the Notice to Adverse Parties of Removal of Case to Federal Court is attached to the Declaration of Lauren E. Raya as **Exhibit F.**)

14. Removal to this Court is proper as the Superior Court of the State of California, County of Orange where this action was originally filed, is located within this district.

15. Plaintiffs have been served with this Notice of Removal, and the additional supporting pleadings.

WHEREFORE, Defendant, COSTCO WHOLESALE CORPORATION, prays that this action be removed to this Court.

Dated: August 31, 2022

McNEIL TROPP & BRAUN LLP

By: /s/ Lauren E. Raya
Deborah S. Tropp, Esq.
Lauren E. Raya, Esq.
Attorneys for Defendant
COSTCO WHOLESALE
CORPORATION, a Washington
Corporation

CERTIFICATE OF SERVICE

I hereby certify on August 31, 2022, I electronically filed the foregoing: **DEFENDANT'S NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(a) (DIVERSITY)** with the Clerk of the Court for the United States District Court, Central District of California by using the Central District CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the USDC-Central District of California CM/ECF system.

I further certify that participants in the case not registered to as CM/ECF users have been mailed a true and correct copy of the above described documents by First Class Mail, postage pre-paid, to the following non-CM/ECF participants:

Daniel Nelson, Esq.
Nelson & Natale, LLP
13144 Prairie Avenue
Hawthorne, California 90250
(310) 641-8300
Fax: (310) 641-4932
Nelson.Natale@Yahoo.com

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the United States Postal Service on that same day, with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

☒ **FEDERAL:** I declare under penalty of perjury in accordance with 28 U.S.C. Section 1746 that the foregoing is true and correct.

Executed on August 31, 2022, at Irvine, California.

/s/ Lauren E. Raya
LAUREN E. RAYA